



RULEMAKING REGARDING REVISIONS TO THE ANIMAS RIVER BASIN WATER
QUALITY CLASSIFICATIONS, STANDARDS AND DESIGNATIONS, REGULATION #34
(5 CCR 1002-34)

PREHEARING STATEMENT OF THE SUNNYSIDE GOLD CORPORATION

Sunnyside Gold Corporation ("Sunnyside"), by and through its attorneys, Dufford & Brown, P.C., pursuant to Commission Rule 21.3(A) does hereby submit its Prehearing Statement in the above matter.

I. INTRODUCTION

Sunnyside owns an inactive mining property in San Juan County, Colorado, commonly referred to as the Sunnyside Mine, and holds two Colorado Discharge System Permits authorizing discharges from the mine. The facility is located within the Animas River Basin, which is the subject of these water quality classifications and standards hearings. Sunnyside is a member of the Animas River Stakeholders Group ("Stakeholders"), that prepared the Use Attainability Analysis (the "UAA") for several segments in the Animas River Basin forming the basis of this proposal. Although Sunnyside is a member of the Stakeholders Group and was involved in the process, it did not perform the detailed analysis contained in the UAA. Sunnyside has also entered into a Consent Decree and Order with the Colorado Water Quality Control Division addressing issues dealing with the discharge permits and the reclamation of the site. Pursuant to that Consent Decree and Order, Sunnyside has initiated and completed a number of projects improving the water quality in the area at a very substantial cost and thereby the water quality in the area has been improving. Nevertheless, Sunnyside is interested in and concerned about the classifications and standards applicable to Segments 2, 3 a and b, 4 a and b, 7, and 9, specifically to assure that the classifications and standards are technically and economically practicable, feasible and achievable in accordance with state law.

II. STATEMENT OF FACTUAL AND LEGAL CLAIMS

The basin in question has only two entities with permitted point source discharges and has many non-permitted historic point source discharges from past mining activities. In addition, of course, there are significant non-point source loadings of pollutants both from natural and disturbed mining areas. The owners of most, if not all, of these properties were not the original mine operators/owners and likely are not financially capable of conducting extensive remediation of the area. The technical and economic feasibility and practicality of the Stakeholders' proposed classifications and standards and classifications and standards proposed by others that may be even more restrictive, must be evaluated in this context.

Sunnyside generally supports the proposal of the Stakeholders with respect to the classifications and standards. Sunnyside's concerns are limited to the aquatic life classifications and the metals standards contained in the proposal. However, Sunnyside also has significant concerns and reservations about the achievability of the classifications and standards proposed by the Stakeholders to the Commission. Specifically, Sunnyside has the following concerns:

A. The proposed standards are based upon an assumption of certain treatment efficiency removing metals from point and non-point sources. However, the system may not react for geochemical reasons or the loading estimate assumptions are not valid, then the projected improvements may not be achieved.

B. The cost estimates need to include disposal costs, that may involve waste removal and therefore, the costs of cleanup are likely understated. Further, the cost estimates do not include a sufficient contingency factor, which is generally the norm for these types of projects.

C. In the event active treatment is necessary at some of the sites, then the cost of operation, maintenance and disposal for an extended period of time should be included, which would also raise the estimated costs. Even passive treatment systems, which the Stakeholders largely relied upon in the UAA will require similar future expenditures.

In addition to the above, Sunnyside is concerned that the estimated cost of work for addressing 33 draining adits at the cost of \$20-\$30 million achieves very minor water quality improvements as evidenced in Figure 11.1 of the Stakeholders' submittal and has no identified source of financing. The estimated cost appears low in the absence of long-term administrative, operating, maintenance, and disposal costs. The proposal recognizes that the funding of these projects is undetermined. Therefore, questions are raised as to whether or not the proposed classifications and standards are technically and economically feasible. In addition, Figure 11.1 raises serious questions as to the reasonable relationship between the water quality benefits of the proposal and the economic costs associated with the proposed metals reductions contrary to the requirements of C.R.S. §25-8-102(5). It must be noted that the metal reductions projected in the proposal do not meet the aquatic standards for most species. In addition, more restrictive classifications and standards that others may propose would be even less reasonable and likely of being attained in the next twenty years.

Further, the assumed point source remediation contained in the proposal also raises practical issues as to the entity, or entities, that may be willing to undertake such effort in light of potential future liability. Specifically, in the absence of a "good samaritan" provision, who will be willing to undertake the remediation, even if the funds were available?

Although Sunnyside generally supports the proposal of the Stakeholders, even though it raises serious concerns as to the technical and economic feasibility and reasonableness of the proposed classifications and standards. Sunnyside's concern would be magnified with more restrictive classifications and standards. Serious questions are raised as to whether the proposals

are attainable in twenty years and whether the proposals meet the statutory and regulatory criteria of reasonable and feasible classifications and standards. Consequently, Sunnyside supports the proposal of the Stakeholders with the noted reservations and believes that the triennial review process in this basin will be critical in the future, so that the Commission could evaluate the progress and the ability to address the uncertainties outlined above. In the interim, the Commission is requested not to set unrealistic classification and standards based on goals or desires.

III. EXHIBITS

Sunnyside does not intend to introduce any exhibits at this time, but reserves the right to use any documents or exhibits endorsed, identified or listed by any other party. Sunnyside may have exhibits necessary for rebuttal or impeachment of the witnesses of any other party.

IV. WITNESSES

A. Larry Perino, Sunnyside Gold Corporation, P. O. Box 177 (#1 Gladstone), Silverton, Colorado 81433, 970-387-5533. Mr. Perino may testify about Sunnyside's facilities in general and the concerns discussed above.

B. Any witness endorsed, designated or identified or called by any other party.

C. Any witness necessary for rebuttal or impeachment.

V. ALTERNATIVE PROPOSALS

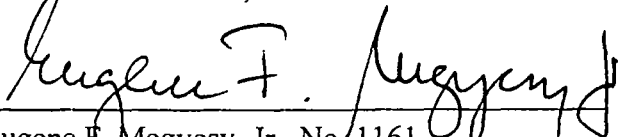
None at this time.

VI. WRITTEN TESTIMONY

Larry Perino may testify as to the matters discussed above, but has no written testimony to submit at this time.

Respectfully submitted this 4th day of April, 2001.

DUFFORD & BROWN, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **PREHEARING STATEMENT OF THE SUNNYSIDE GOLD CORPORATION** by placing a true and correct copy of same in the U.S. mail, first class postage prepaid on this 4th day of April, 2001, addressed to the following:

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